

AO 241 rev. 5/85)

**PETITION UNDER 28 U.S.C. § 2245 WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

United States District Court		District of <u>Massachusetts</u>
Name <u>ANTHONY M. LEO</u>	Prisoner No. <u>2682</u>	Case No. <u>2005 JAN 25 P 3:25</u>
Place of Confinement <u>Worcester County House of Correction</u> <u>5 Paul X Tivinan Drive</u> <u>West Boylston, Massachusetts 01583</u>		

FILED
CLERKS OFFICE
U.S. DISTRICT COURT
DISTRICT OF MASS

Name of Petitioner (include name under which convicted) Name of Respondent (authorized person having custody of petitioner)

ANTHONY M. LEO v. COMMONWEALTH OF MASSACHUSETTS

The Attorney General of the State of: Thomas F. Reilly

PETITION

- Name and location of court which entered the judgment of conviction under attack Worcester Superior Court
2 Main Street Worcester, Massachusetts 01608
- Date of Judgement 07/18/2002
- Length of sentence Bail set at \$5,000,000.00 surety and \$500,000.00 cash
- Nature of offense involved (all counts) 4 Counts Agg. Rape
2 counts B & E daytime
2 counts Larceny from building
- What was your plea? (Check one)

(a) Not guilty ☐

(b) Guilty ☐

(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and not a guilty plea to another count or indictment, give details:
N/A
- If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☐ N/A

(b) Judge only ☐
- Did you testify at the bail hearing?
Yes ☐ No ☒
- Did you appeal from the judgment of conviction?
Yes ☒ No ☐

9. If you did appeal, answer the following:

- (a) Name of court Supreme Judicial Court for Massachusetts
- (b) Result Petition under G.L. c. 211, § 3, Single Justice denied relief
- (c) Date of result and citation, if known 06/18/2003 Dckt No: #SJ-2003-0258
- (d) Grounds raised 8th and 14th Amendments to the U.S. Constitution and
Articles 10, 12, 26 of the Massachusetts Declaration of Rights
- (e) If you sought further review of the decision on appeal by a higher state court, please answer the following:
- (1) Name of court Full Bench of the Supreme Judicial Court for Massachusetts
- (2) Result Appeal from denial of G.L. c. 211, § 3, petition to reduce bail
of 06/18/2003, Court will not hear matter until after September 2004 or
later.
- (3) Date of result and citation, if known S.J.C. - 09074
- (4) Grounds raised 5th., 6th., 8th., & 14th., Amendments to the U.S. Constitution
violation of 18, U.S.C. § 3142(c)(e)(f), 3145, Articles 10, 12 & 26 of
the Massachusetts Declaration of Rights
- (f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

- (1) Name of court _____
- (2) Result _____
- (3) Date of result and citation, if known _____
- (4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

- (a) (1) Name of court Worcester Superior Court, Worcester Ma. 01608
- (2) Nature of proceeding Motion to Revisit Bail, "Change of Circumstances"
- (3) Grounds raised Defendant, no longer "Suicidal" hence a "Risk of Flight"
by presenting D.O.C. Menatl Health Reports.

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result Denied-Declined to Act-No Change of Circumstances

(6) Date of result 05/22/2003 Sweeney, J.

(b) As to any second petition, application or motion give the same information:

(1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result _____

(6) Date of result _____

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐

(2) Second petition, etc. Yes ☐ No ☐

(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting the same.

Caution: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (h) Denial of right of appeal.

A. Ground one: 8th. Amendment Violations of Excessive Bail

Supporting FACTS (state *briefly* without citing cases or law) On June 17, 2002 Defendants bail was set at \$5,000,000.00 Surety and \$500,000.00 cash without any evidence bearing a indicia of reliability to justify setting such a high bail. Bail was set in the above to financially guarantee detention of defendant whereas he could not ever reasonably meet the financial demand.

B. Ground two: 5th Amendment Violation-Length of Pretrial Detention

Supporting FACTS (state *briefly* without citing cases or law) Defendant was held for over 24 months with no trial date forthcoming. Fifth attorney just appointed to defendant. I am being punished for crimes that I am considered innocent of until proven otherwise by a jury of my peers. Detention is rendered so harsh by its length that it has degenerated into punishment

C. Ground three: _____

Supporting FACTS (state *briefly* without citing cases or law) _____

Ground four: _____

D. _____

Supporting FACTS (state *briefly* without citing cases or law) _____

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them: _____

14. Do you have any petition or appeal now pending, in any court, either state or federal, as to the judgment under attack?
 Yes ☒ No ☐

15. Give the name and address, if known, of each attorney who represented you in the following stages of judgment attacked herein:

(a) At preliminary hearing Michael Richstone, Esq. 209 Glenwood Road, Rutland, MA 508-886-2241

(b) at arraignment John Roemer, Esq. Comm. For Public Counsel Services 340 Main Street, Worcester, MA 01608

AO 241 (Rev. 5/85)

(c) At Motion to Revisit Bail : John Goggins, 47 Harvard Street, Worcester/ MA. and Daniel Cronin/ P.O. Box 676 Lunenburg, MA 01462

(d) At sentencing _____

(e) On appeal Anthony Leo, Pro Se, Worcester County House of Correction 5 Paul X Tivnan Drive, West Boylston, Massachusetts 01583

(C) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding. _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence; 04/23/2002 detention is limitless.

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

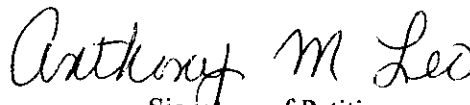
Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

January 24, 2005

(date)

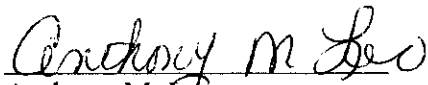

Signature of Petitioner

(7)

Certificate of Service

I, Anthony Leo, hereby certify that a true copy of the above document was served upon the respondent, Maura D. McLaughlin, A.A.G. Comm. of Mass, by depositing the copy in the institution depository for pick up and delivery be first class mail, postage prepaid, as follows:

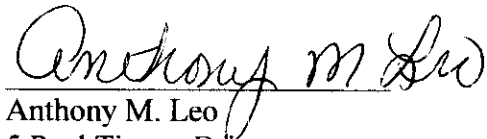
Attorney Generals Office
Comm. Of Massachusetts
Criminal Bureau
Attn: Maura McLaughlin
1 Ashburton Place
Boston, MA 02108


Anthony M. Leo
5 Paul Tivnan Drive
West Boylston, MA 01583

Certificate of Service

I, Anthony Leo, hereby certify that a true copy of the above document was served upon the respondent, Maura D. McLaughlin, A.A.G. Comm. of Mass, by depositing the copy in the institution depository for pick up and delivery by first class mail, postage prepaid, as follows:

Clerk of Courts
U.S. District Court
District of Massachusetts
1 Courthouse Way
Boston, MA 02210

A handwritten signature in cursive script, reading "Anthony M. Leo". The signature is written in black ink and is positioned above the printed name and address.

Anthony M. Leo
5 Paul Tivnan Drive
West Boylston, MA 01583